

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CRM-M- 10531 of 2011

Date of Decision: July 29, 2015

Jagjit Singh

....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Present: Mr. HPS Ghuman, Advocate
for the petitioner.

Mr.Shilesh Gupta, Addl.A.G, Pb.

Rajan Gupta, J (Oral)

Accused-Dharampal was sent up to face trial for offences under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988. It appears that a contract had been given to the petitioner-complainant for handling and transportation of goods to F.C.I. He was to provide labour for loading wheat and paddy bags. Payment thereof was to be made by the F.C.I. Certain cheques were given to Assistant Manager, F.C.I, Bareta, District Bathinda and were later forwarded to District Manager, Bathinda. Accused-Dharampal was posted as Assistant Manager from December 2004 to January 2005. Allegation is that he withheld the payment of the complainant and demanded illegal gratification of Rs.3000/- for releasing the amount. As the complainant did not wish to give bribe, he complained to the Vigilance Bureau, Punjab. Thereafter, a trap was laid and accused-Dharampal was caught red-handed while taking bribe of Rs.3000/- in the denomination of Rs.500/- each. Thereafter full fledged trial followed.

However, trial court found the prosecution story doubtful and acquitted accused-Dharampal vide judgment dated 4.7.2009. Thereafter, police submitted calendra under Section 182 IPC before S.D.J.M., Mohali.

Learned counsel for the petitioner has relied upon judgment reported as **Balraj Singh Vs. State of Punjab, 2006 (4) RCR (Crl) 488** to contend that after lodging the FIR, full fledged trial followed. After conclusion thereof, petitioner could not be proceeded under Section 182 IPC.

Learned State counsel does not dispute the ratio of aforesaid judgment.

I have heard learned counsel for the parties.

In **Balraj Singh's case** (supra), this court has held as under:-

“After hearing learned counsel for both the sides and having gone through the facts of the case, in my view the Calendra under Section 182 Indian Penal Code the order Annexure P-6 and all subsequent proceedings initiated against the petitioner deserve to be quashed for a very simple reason that after a full fledged trial, the petitioner could not be booked for giving false information to the police as punishable under Section 182 Indian Penal Code. The prosecution agency could initiate the proceedings against the petitioner for the said offence only during the investigation of the case finding that the information supplied by the petitioner was false but not after submitting of challan under Section 173 Criminal Procedure Code against the accused to face trial. In the case in hand, the position is rather better as during the trial, the petitioner was declared hostile by the Public Prosecutor and therefore, if his substantive statement

was to be dubbed as false evidence, he could, at the most, be booked for the offences punishable under Section 193 or 194 Indian Penal Code that too after giving of verdict against him by the trial court.

In view of the above discussion Calendra Annexure P-4, the order Annexure P-6 and all subsequent proceedings arising therefrom are liable to be quashed. Ordered accordingly.”

In the instant case also petitioner turned hostile during the trial. After the judgment of acquittal was delivered, present proceedings were initiated against the petitioner under Section 182 IPC. In view of law laid down in **Balraj Singh's case** (supra), I am of the considered view that orders Annexures P/1 & P/2 are unsustainable and same deserve to be quashed. Ordered accordingly. Petition is allowed in these terms.

(Rajan Gupta)
Judge

July 29, 2015
BB

To be Referred to Reporter Yes/No